

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SAM McFARLAND,

Case No. 3:21-cv-00294-MMD-CSD

Plaintiff,

ORDER

v.

CHARLES DANIELS, et al.,

Defendants.

This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has applied to proceed *in forma pauperis*. (ECF No. 1). Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on December 20, 2021. (ECF No. 3). The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 3, 9). The Office of the Attorney General filed a status report indicating that settlement has not been reached and informing the Court of its intent to proceed with this action. (ECF No. 13). The Office of the Attorney General also filed a motion seeking to stay the deadlines in this case for another 90 days to allow the parties time to continue their settlement discussions. (ECF No. 12). The Court granted the motion in part, granting the parties' a 45-day stay, which expired on May 27, 2022. (ECF No. 14). That deadline has passed, and the parties have not filed any documents about their settlement.

For the foregoing reasons, **IT IS ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

1 2. The movant herein is permitted to maintain this action to conclusion without
2 the necessity of prepayment of any additional fees or costs or the giving of security
3 therefor.

4 3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform
5 Act, the Nevada Department of Corrections will forward payments from the account of
6 **SAM McFARLAND, #1197462** to the Clerk of the United States District Court, District of
7 Nevada, 20% of the preceding month's deposits (in months that the account exceeds
8 \$10) until the full \$350 filing fee has been paid for this action. The Clerk of the Court will
9 send a copy of this order to the Finance Division of the Clerk's Office and to the attention
10 of **Chief of Inmate Services for the Nevada Department of Corrections**, P.O. Box
11 7011, Carson City, NV 89702.

12 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
13 a copy of Plaintiff's complaint (ECF No. 4) on the Office of the Attorney General of the
14 State of Nevada by adding the Attorney General of the State of Nevada to the docket
15 sheet. This does not indicate acceptance of service.

16 5. Service must be perfected within 90 days from the date of this order
17 pursuant to Fed. R. Civ. P. 4(m).

18 6. Subject to the findings of the screening order (ECF No. 3), within 21 days
19 of the date of entry of this order, the Attorney General's Office shall file a notice advising
20 the Court and Plaintiff of: (a) the names of the defendants for whom it accepts service;
21 (b) the names of the defendants for whom it does not accept service, and (c) the names
22 of the defendants for whom it is filing the last-known-address information under seal. As
23 to any of the named defendants for whom the Attorney General's Office cannot accept
24 service, the Office shall file, under seal, but shall not serve the inmate Plaintiff the last
25 known address(es) of those defendant(s) for whom it has such information. If the last
26 known address of the defendant(s) is a post office box, the Attorney General's Office shall
27 attempt to obtain and provide the last known physical address(es).

1 7. If service cannot be accepted for any of the named defendant(s), Plaintiff
2 shall file a motion identifying the unserved defendant(s), requesting issuance of a
3 summons, and specifying a full name and address for the defendant(s). For the
4 defendant(s) as to which the Attorney General has not provided last-known-address
5 information, Plaintiff shall provide the full name and address for the defendant(s).

6 8. If the Attorney General accepts service of process for any named
7 defendant(s), such defendant(s) shall file and serve an answer or other response to the
8 complaint (ECF No. 4) within sixty (60) days from the date of this order.

9 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been
10 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other
11 document submitted for consideration by the Court. If Plaintiff electronically files a
12 document with the Court's electronic-filing system, no certificate of service is required.
13 Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if Plaintiff
14 mails the document to the Court, Plaintiff shall include with the original document
15 submitted for filing a certificate stating the date that a true and correct copy of the
16 document was mailed to the defendants or counsel for the defendants. If counsel has
17 entered a notice of appearance, Plaintiff shall direct service to the individual attorney
18 named in the notice of appearance, at the physical or electronic address stated therein.
19 The Court may disregard any document received by a district judge or magistrate judge
20 which has not been filed with the Clerk, and any document received by a district judge,
21 magistrate judge, or the Clerk which fails to include a certificate showing proper service
22 when required.

23 10. This case is no longer stayed.

24 DATED: June 1, 2022.

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27 UNITED STATES MAGISTRATE JUDGE
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